



Docket Number R-1723 and RIN Number 7100-AF94

To Whom it May Concern:

PolicyLink opposes the changes to the Community Reinvestment Act (CRA) described in the Advanced Notice of Proposed Rulemaking (ANPR) published in the Federal Register by the Federal Reserve Board (FRB) on September 21, 2020. As a national research and advocacy organization focused on racial equity and economic inclusion, we find that the proposed changes are in direct contrast with the spirit and goals of the original legislation passed in 1977. While we acknowledge the need to improve and modernize the legislation to address global shifts in banking and technology, the proposed changes are woefully incapable of accomplishing these goals in a manner that benefits all Americans, particularly low-income people and people of color. Furthermore, the proposed changes would impede an equitable recovery from the COVID-19 pandemic.

The FRB has stated that the approaches described in the ANPR will make CRA exams more objective and transparent. Yet, the FRB's approach will not satisfactorily reduce the high rate of CRA inflation. If virtually every bank continues to pass their CRA exams, banks will not engage in strenuous efforts to help communities of color and low- and moderate-income (LMI) neighborhoods recover from the pandemic's devastation.

Since the outbreak of the pandemic, an abundance of research has confirmed the racialized inequities undergirding the disproportionate impact that COVID-19 is having on people of color in this country. For example, in June 2020 PolicyLink released the *Race, Risk, and Workforce Equity in the Coronavirus Economy* report underscoring the overrepresentation of workers of color in the small businesses struggling the most due to the pandemic.[i] Since the start of the pandemic, more than 440,000 Black-owned businesses have been closed or 41% compared to just 17% of White-owned small businesses.[ii] Discrimination in lending contributes significantly to racial disparities in small business survival rates. In *Strategies to Advance Racial Equity in Housing Response and Recovery*, PolicyLink highlighted the need for lenders to work

collaboratively with landlords and homeowners to prevent a cascade of evictions and foreclosures given the disproportionate share of renters and homeowners of color paying more than 30 percent of their income towards housing expenses. In each of these scenarios, banks have the potential to play an outsized role in addressing these inequities, and strong, clear CRA guidance would provide valuable incentive for them to participate.

Strengthening CRA is a critical component of a just recovery

Although the practice of redlining is no longer legal, its legacy continues to compound racialized inequality. The National Community Reinvestment Coalition (NCRC) recently released a major report finding significant correlations between redlining and susceptibility to COVID. In the 1930s, the Home Owners Loan Corporation (HOLC) commissioned the production of maps that rated neighborhoods based on the risk of lending in them.[iii] Working class and minority neighborhoods usually received the riskiest designation of hazardous. These designations subsequently facilitated systemic discrimination against these neighborhoods, which remain starved of credit and are predominantly comprised of low-income people and people of color. These neighborhoods also have the highest incidence of the health conditions such as asthma, diabetes, kidney disease and stroke, which make residents more susceptible to COVID-19. Life expectancy is almost four years lower in the redlined communities than the neighborhoods not designated as hazardous by HOLC.

Moreover, institutional and structural racism continue to deny economic opportunities to people of color. A NCRC investigation found that African American testers applying for Paycheck Protection Program (PPP) loans for their small businesses during the pandemic were likely to receive less information or encouragement to apply than White testers.[iv] CRA must be strengthened considerably in order to combat discrimination and help low-income communities and communities of color recover from the pandemic.

The Federal Reserve proposal must be strengthened to prevent grade inflation

It is unclear if the FRB's ANPR proposals will address CRA ratings inflation. The FRB emphasizes improving the performance measures on CRA exams including those used on the lending test that compare a bank's percent of loans to LMI borrowers and communities to other lenders. However, the FRB

proposes thresholds that appear to replicate the aggrandized and inefficient ratings on current CRA exams. For example, Hudson City Savings Bank has consistently received satisfactory CRA ratings for years. Yet, in 2015 the Consumer Financial Protection Bureau and the Department of Justice launched a joint action against Hudson City Savings bank for discriminatory lending practices that denied residents in neighborhoods of color from accessing mortgage loans in New York, New Jersey, Connecticut, and Pennsylvania. In their Philadelphia and Camden assessment area, Hudson City Savings Bank excluded all 337 neighborhoods that were predominantly Black or Latinx.[v]

The FRB is also proposing to reduce the number of ratings on a state level and on subtests from five to four. This proposal would result in fewer distinctions in performance. A new CRA exam system must include more distinctions in performance in order to motivate banks to be more responsive to COVID-19 recovery needs. Five ratings must be retained on the state level and on subtests.

The Federal Reserve Board proposal should be strengthened to increase lending to people of color

The FRB recognizes the importance of addressing racial inequities. It asks the public whether underserved areas should be designated based on high levels of poverty or low levels of retail lending. PolicyLink supports NCRC's designation of underserved census tracts based on low levels of lending which would effectively target neighborhoods redlined as a result of the HOLC classifications.

We also ask the FRB to consider explicitly including race on CRA exams although the CRA administrative agencies have hesitated to do so in the past. We believe that CRA legislation permits this since the law emphasizes that banks must meet credit needs in all communities, particularly underserved ones. CRA exams could include performance measures assessing lending, investing, branching and services to people of color and communities of color. In addition, CRA exams can include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas (geographical areas on CRA exams). The FRB could also provide CRA consideration for lending and investing in majority people of color census tracts outside of assessment areas just as the FRB is considering for Indian reservations and other underserved

areas. Explicitly capturing racial demographic data is critical for ensuring that banks are truly meeting the banking needs of communities and supporting fair lending examiners with identifying market trends. Access to this level of information will become increasingly important as the nation moves toward becoming majority people of color in 2045.

Assessment areas must support and reflect a commitment to local lending, investments and services

We support the FRB's proposals to expand assessment areas on CRA exams. Expanded assessment areas are essential given that many underserved communities and communities of color lack physical bank branches. For example, in the New Orleans metropolitan area seven percent of bank branches closed between 2017 and 2020. However, twice as many branches closed in majority people of color neighborhoods, and all of those closures were in low-to-moderate income census tracts.[vi] In addition to areas around branches, assessment areas must also include areas outside of branches with significant amounts of bank lending or deposit-taking. PolicyLink opposes the idea of a national assessment area for internet banks that the FRB has proposed. Instead, we believe that data analysis can be used to designate areas where high numbers of retail loans or deposits are located.

We applaud the FRB proposal to eliminate distinctions between full-scope and limited-scope assessment areas. Full-scope assessment areas, which are usually the largest cities, count more on current CRA exams than limited-scope areas that generally are smaller cities and rural counties. Often, communities of color, Native American reservations and other underserved communities continue to receive less CRA-related loans and investments because they are in limited-scope areas.

CRA modernization must maintain its focus on low-income communities and communities of color

Unlike the Office of the Comptroller (OCC), the FRB generally does not stray away from the focus on LMI communities in its ANPR proposals. However, we do not support expanding financial education to any income since LMI consumers and people of color are most likely to be unbanked or underbanked as revealed by surveys conducted by the Federal Deposit Insurance Corporation (FDIC). The FRB can designate additional subgroups in the

population such as people of color, people with disabilities, or older adults, for whom CRA credit for financial education or other community development activity can be earned instead of opening it up to everyone regardless of need.

Federal Reserve Board CRA reform must support neighborhood preservation and prevent displacement

The FRB should further develop its procedures for awarding CRA credit for financing affordable housing that is not subsidized so that such financing actually serves LMI tenants. Currently, banks often sell mortgages to speculative developers that then evict tenants to be able to charge higher rents. Banks should not be originating mortgages for properties unable to cover debt service with existing rent rolls. Those banks that issue such mortgages should receive negative credit in their CRA exams. Furthermore, banks should be incentivized to make loans to community-based nonprofit organizations to acquire rent regulated, subsidized, and naturally occurring affordable units at risk of being lost to the speculative market.

Collecting improved community development and deposit data

Finally, the FRB should pursue its proposal to collect improved community development and deposit data. Community development and deposit data should be collected on a census tract level or at least on a county level so that CRA exams can better target community development financing to areas of need.

Conclusion

PolicyLink appreciates the direction the FRB has shifted in its ANPR, but cautions that it should not aim for policy reform that replicates existing CRA ratings inflation as this will not help the low-income communities and communities of color devastated by COVID-19. We believe that this proposal serves as an important starting point for an interagency rulemaking process that will strengthen CRA and take a critical step towards more financially resilient communities and an equitable recovery.

[i] Abbie Langston, Sarah Treuhaft, Justin Scoggins, Joel Simon, and Matthew Walsh. Race, Risk, and Workforce Equity in the Coronavirus Economy. June 3, 2020. <https://www.policylink.org/node/59691>

[ii] Rodney A. Brooks. More than Half of Black-Owned Businesses May Not Survive COVID-19. July 17, 2020. <https://www.nationalgeographic.com/history/2020/07/black-owned-businesses-may-not-survive-covid-19/>

[iii] Jason Richardson, Bruce C. Mitchell, Helen C.S. Meier, Emily Lynch, and Jad Edlebi. Redlining and Neighborhood Health. National Community Reinvestment Coalition. <https://ncrc.org/holc-health/>

[iv] Annaliese Lederer and Sara Oros. Lending Discrimination within the Primary Protection Program. National Community Reinvestment Coalition. <https://ncrc.org/lending-discrimination-within-the-paycheck-protection-program/>

[v] Consumer Financial Protection Bureau. September 24, 2015. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-doj-order-hudson-city-savings-bank-to-pay-27-million-to-increase-mortgage-credit-access-in-communities-illegally-redlined/>

[vi] Jad Edlebi. Research Brief: Bank Branch Closure Update 2017-2020. National Community Reinvestment Coalition. <https://ncrc.org/research-brief-bank-branch-closure-update-2017-2020/>